

SENATE BILL 1194

By Clabough

AN ACT to submit to the people of Tennessee a question relating to the calling of a convention for the purpose of altering, reforming, or abolishing the present Constitution of Tennessee with respect to Article II, Sections 28 and 29, relative to taxation; Article II, Section 31, relative to state investments; Article VI, Section 14, relative to fines; Article VII, Section 1, relative to county officers and county government; Article X, Sections 4 and 5, relative to consolidation of counties and creation of new counties; Article XI, Section 5, relative to the prohibition of lotteries and the sale of lottery tickets; Article XI, Section 9, relative to consolidation of municipal and county functions; and Article XI, Section 12, relative to education; to provide for an election to determine the will of the people with respect to such question; to provide for the holding of a convention if the people approve the proposal and call a convention; to provide for the election of convention delegates; to fix their compensation and allowances; to provide for an election to submit the recommendations of the convention to the people for their approval; and to provide for the payment of the expenses of holding the elections and the convention.

WHEREAS, Article XI, Section 3, of the Constitution of Tennessee provides:

The legislature shall have the right by law to submit to the people, at any general election, the question of calling a convention to alter, reform, or abolish this constitution, or to alter, reform, or abolish any specified part or parts of it; and when, upon such submission, a majority of all the voters voting upon the proposal submitted shall approve

the proposal to call a convention, the delegates to such convention shall be chosen at the next general election and the convention shall assemble for the consideration of such proposals as shall have received a favorable vote in said election, in such mode and manner as shall be prescribed; and

WHEREAS, the legislature considers it to be in the public interest to submit to the people of Tennessee the question of whether or not the present Constitution of Tennessee shall be altered, reformed, and abolished only in certain particular parts, sections, or additions, as may be determined by a convention whose authority would be limited by vote of the people to the consideration of altering, reforming, or abolishing only those parts or sections of the constitution to which the suggested reforms would, if adopted, apply, including any additional provisions relating to such matters which might be required; and whose actions in such matters shall be subject to ratification by the people, in whole or in part, the legislature acting merely as the designated agency to enable the people of Tennessee to determine the question of whether or not such a limited convention should be held; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. In order to ascertain the will of the people with respect to whether or not a limited constitutional convention should be called, there shall be submitted to the people of the state at the regular November election, to be held on Tuesday, November 5, 2002, one (1) question, which shall be printed in full on each ballot or voting machine, in words and figures as follows:

#### CONSTITUTIONAL REFERENDUM

Question: Shall a convention be held to alter, reform, or abolish the following parts and subject matter of the present Constitution of Tennessee, the convention to be limited to consideration of and action upon the parts and subject matter included in this act and whose actions with respect thereto become effective only after the amendments proposed by the convention are separately submitted to and ratified by a vote of the people?

Article II, Sections 28 and 29, relative to taxation; and  
Article II, Section 31, relative to state investments; and  
Article VI, Section 14, relative to fines; and  
Article VII, Section 1, relative to county officers and county government; and  
Article X, Sections 4 and 5, relative to consolidation of counties and creation of  
new counties; and

Article XI, Section 5, relative to the prohibition of lotteries and the sale of lottery  
tickets; and

Article XI, Section 9, relative to consolidation of municipal and county functions;  
and

Article XI, Section 12, relative to education; and

\_\_\_\_\_FOR THE CONVENTION

\_\_\_\_\_AGAINST THE CONVENTION

Voters will indicate their choice by placing a cross mark (x) opposite one or the other of  
the above expressions.

SECTION 2. The proper officers in all counties shall immediately after the election make  
a return to the secretary of state of the number of votes cast in their respective counties "For the  
Convention" and the number of votes cast "Against the Convention" with respect to the question  
in Section 1, and after comparison of the returns by the secretary of state and the attorney  
general, the governor shall, by proclamation, announce the results.

SECTION 3. If the people approve the question and thereby authorize the convention,  
delegates shall be elected at the regular August election which shall be held on Thursday,  
August 5, 2004, under the general election laws of the state in the several counties and  
senatorial districts. There shall be thirty-three (33) delegates, with one (1) to be elected by the  
qualified voters of each state senate district from which members are elected to the senate of  
the general assembly of Tennessee, as such districts exist at the time delegates are elected to

the Constitutional Convention. Delegates shall be subject to the Campaign Financial Disclosure Law, Tennessee Code Annotated, Title 2, Chapter 10, Part 1.

SECTION 4. Any person who is twenty-one (21) years of age, a citizen of the United States, and a citizen of Tennessee for three (3) years and a resident of the district for one (1) year may become a candidate for delegate to the convention upon filing with the county election commission of the county of residence a nominating petition containing not less than twenty-five (25) names of legally qualified voters of the state senatorial district. In the case of a candidate from a state senatorial district comprising more than one (1) county, only one (1) qualifying petition need be filed by the candidate, and that in the candidate's home county, with a certified copy thereof filed with the election commission of the other counties in the state senatorial district.

Every person desiring to become a delegate to the convention shall qualify by the filing of qualifying petition or petitions by 12:00 o'clock noon, prevailing time, on Thursday, May 20, 2004. The names of candidates for the delegates to the convention shall be placed on the official ballot alphabetically without reference to political affiliation. The candidate who receives the greatest number of votes shall be the delegate.

The returns from the various counties of the state electing delegates to the convention shall be certified to the secretary of state and canvassed by the secretary of state, the governor and the attorney general in the same manner and form as the returns are required to be certified from the election in which the people vote for and against the call of the convention, as provided in Section 1, and the governor shall, by proclamation, announce the names of those elected as delegates to the convention. Delegates to the convention, elected and certified, shall receive a certificate of election signed by the governor and attested by the secretary of state under the great seal of the state.

SECTION 5. The delegates elected to the convention shall assemble in the chamber of the house of representatives at Nashville at 12:00 o'clock noon on Tuesday, September 7, 2004, and organize by electing one (1) of their members as president, another as secretary, and

by electing such other officers as they consider necessary. If a majority of the delegates are not present on that date, those present shall adjourn from day to day until a majority appears, when the convention shall be organized. The convention when organized may adopt its own rules of procedure and employ such clerks, stenographers, reporters, sergeants-at-arms, and other assistants as the convention considers necessary and fix the amount of their compensation.

The compensation of the delegates to the convention shall be a per diem allowance in such amount as may prevail during the time the convention meets for members of the general assembly and they shall also be allowed the same mileage allowance as may be provided to members of the general assembly during the time the convention meets, which shall be paid by the state in the same manner that members of the general assembly are paid, upon certification by the president and secretary of the convention. Compensation and expenses of delegates and such other incidental expenses as may be necessarily incurred by the convention shall be paid by the commissioner of finance and administration on warrant drawn upon the treasurer, upon certification of the president and secretary of the convention. Compensation and expenses shall be limited to a period of not more than seventy-five (75) consecutive calendar days, excluding weekends. In case there shall be a vacancy in the membership of the convention from any county or state senatorial district, it shall be filled by election by the legislative body of the county of residence of the delegate whose seat becomes vacant.

SECTION 6. It is the duty of the secretary of state to make publication in at least one (1) general circulation newspaper published in each county of the fact that a constitutional convention election is to be held in the state on Tuesday, November 5, 2002. Any county not having a general circulation newspaper shall be considered to have been notified by publication in the newspaper published in counties immediately adjacent thereto. The secretary of state shall also certify to the various commissioners of the different counties the form for the ballot with reference to the constitutional convention election agreeable to the terms of this act and furnish the election commissioners with any other printed information pertaining to the election that is material or necessary. If the people vote in favor of the convention, then it is the duty of

the secretary of state to issue a call for the election of delegates to the convention. The election shall be held in the various counties of the state on Thursday, August 5, 2004, and the secretary of state shall certify to the various county election commissioners the form of the ballot to be used in the election of delegates as provided in Section 4. All ballots used in the 2002 November election shall include the above question as to holding the limited constitutional convention and the ballots used in the 2004 August election shall include the names of the candidates for delegates to such convention.

SECTION 7. The final action of the convention with respect to the alteration, reformation, abolishment or amendment of the section and the subject matter of the Constitution of Tennessee as set out in this act shall be duly certified by the president and the secretary of the convention and the original certified copy shall be transmitted to the secretary of state.

SECTION 8. Any amendment to the constitution adopted by the convention shall be submitted to the voters of the state for ratification or rejection of each separate amendment at an election to be held in such manner and on such date after the final adjournment of the convention as may be fixed and determined by the convention. If, for any reason, the convention itself does not call an election, then the general assembly next convening shall call an election for this purpose, fixing the date for the election and form of the ballot that shall be used. The official ballot to be used in any such election shall be arranged so that the voter can vote separately for the ratification or rejection of each and every amendment. Any election so held shall be held under the general election laws of the state. When the election to ratify or reject any amendment to the constitution has been held, the various county election commissioners shall certify the result thereof in each county to the secretary of state, who, together with the governor and attorney general, shall canvass the returns and the governor shall issue a proclamation showing the result of the election on the ratification or rejection of the amendment. All amendments ratified and approved in the election held for that purpose shall be proclaimed by the governor as a part of the constitution of the state and such proclamation shall be filed in the office of the secretary of state.

SECTION 9. All expenses in connection with the holding of any of the elections authorized by this act shall be paid by the commissioner of finance and administration on warrant drawn upon the treasurer upon certification by the secretary of state to the correctness of each account. No compensation shall be paid by the state to the various county election commissioners for their services or for rental space or quarters in the various counties for places for holding any elections herein authorized.

SECTION 10. Any person acting as a lobbyist at the constitutional convention shall comply with Tennessee Code Annotated, Title 3, Chapter 6, as if the convention were the general assembly of the state of Tennessee.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.